

**ENTERED**

August 19, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

VICTOR BARNES, II, *et al.*,

Plaintiffs,

v.

GRACIA MEXICAN KITCHEN, LLC,  
*et al.*,

Defendants

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CIVIL ACTION NO. 2:18-CV-140

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION ON  
MOTIONS TO DISMISS**

Before the Court is Magistrate Judge Jason B. Libby's Memorandum and Recommendation (M&R), entered on July 10, 2019. (D.E. 98). The M&R recommends that the Court deny Defendants Matthew Hoeg's and Brian Smith's motion to dismiss (D.E. 58) and Defendant Adrian Hembree's motion to dismiss (D.E. 67).

The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No timely objection has been filed. When no timely objection has been filed, the district court need only determine whether the magistrate judge's memorandum and recommendation is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Powell v. Litton Loan Servicing, LP*, No. CIV. A. H-14-2700, 2015 WL 3823141, at \*1 (S.D. Tex. June 18, 2015).

Having carefully reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the

M&R is not clearly erroneous or contrary to law, the Court ADOPTS the M&R in its entirety. (D.E. 98). Accordingly, Defendants' motions to dismiss are DENIED. (D.E. 58, D.E. 67).

SIGNED and ORDERED this 19<sup>th</sup> day of August 2019.



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DAVID S. MORALES  
UNITED STATES DISTRICT JUDGE